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**BEFORE THE ARIZONA MEDICAL BOARD**

In the Matter of

**BRUCE HUNTER, M.D.**

Holder of License No. 24075  
For the Practice of Allopathic Medicine in the  
State of Arizona

Docket No. **05A-24075-MDX**

Case No. MD-05-0177A and  
MD-05-1029A

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER FOR  
REVOCATION OF LICENSE**

On June 7, 2006 this matter came before the Arizona Medical Board ("Board") for oral argument and consideration of the Administrative Law Judge ("ALJ") Brian Brendan Tully's proposed Findings of Fact and Conclusions of Law and Recommended Order involving Bruce Hunter, M.D. ("Respondent"). Respondent was notified of the Board's intent to consider this matter at the Board's public meeting. Respondent did not appear and was not represented by counsel. The State was represented by Assistant Attorney General Christopher Munns. Christine Cassetta, of the Solicitor General's Section of the Attorney General's Office provided legal advice to the Board.

The Board having considered the ALJ's report and the entire record in this matter hereby issues the following Findings of Fact, Conclusion of Law and Order.

**FINDINGS OF FACT**

1. The Arizona Medical Board ("Board") is the duly constituted authority for licensing and regulating the practice of allopathic medicine in Arizona.

2. Respondent is the holder of License No. 24075 for the practice of allopathic medicine in Arizona. He lives in Ogden, Utah. Respondent is not actively licensed to practice medicine in Utah.

**Case Number MD-05-0177A**

3. The Board initiated case number MD-05-0177A on March 25, 2005 after receiving a complaint that Respondent failed to establish a doctor/patient relationship, prescribed Soma over the internet without conducting a physical examination, and failed to maintain adequate records.

4. Respondent was noticed of the allegations by letter dated April 20, 2005 from James W. Raines, Senior Medical Investigator for the Board, but he did not respond.

5. Respondent was noticed of the allegations again by letter on July 15, 2005 from Brenda J. Heverly, Senior Medical Investigator for the Board, but he did not respond.

6. Ms. Heverly left a telephone voice mail message on Respondent's telephone on August 1, 2005 and he did not respond.

7. The notice letter was sent by certified mail a third time on August 25, 2005. Respondent did not respond by the required date.

8. By letter dated September 15, 2005 Respondent wrote to Ms. Heverly and requested clarification as to the allegations. Additional notices were sent by Ms. Heverly to Respondent to clarify the allegations and obtain additional information. Respondent did not respond by the required date.

9. On October 17, 2005 Ms. Heverly telephoned a website company selling Soma online. A customer service representative indicated that Respondent was one of two physicians who prescribed medications over the website for the company. The customer service representative also indicated to Ms. Heverly that a customer ordering medication online does not speak to either physician, but fills out an online questionnaire that is forwarded to either Respondent or to the other physician.

10. By letter dated November 7, 2005 Respondent filed a response admitting he prescribed medications over the internet "for a period of time." Respondent stated that he did

1 not know that internet prescribing was not condoned by the Board. Respondent indicated in  
2 that letter that he "stopped immediately any further online or internet prescribing."

3 11. Contrary to Respondent's statement that he had stopped internet prescribing, a  
4 pharmacy survey of a Utah pharmacy indicates that Respondent continued to prescribe over the  
5 internet through December 30, 2005. The survey indicates that Respondent wrote over 400  
6 prescriptions during November and December 2005 through the USAPrescription.com website.

7 12. The pharmacist at the Utah pharmacy informed Ms. Heverly that internet  
8 companies contact his pharmacy and ask if it will fill prescriptions for their website. The  
9 pharmacist indicated that pharmacy staff asks for the names of the doctors who prescribe for  
10 the website. Respondent had been identified as a prescriber for an online website.

11 13. The pharmacist indicated the prescriptions he had filled for Respondent over  
12 the past few months had mainly been for erectile dysfunction (Viagra, Cialis and Levitra)  
13 because his pharmacy no longer fills prescriptions for controlled substances that come from  
14 websites.

15 14. Ms. Heverly requested Respondent to provide any medical records for the  
16 customers for whom he had prescribed. Respondent failed to respond with the requested data.

17 15. The Board received information that Respondent had prescribed Soma over  
18 the internet to P.Z., a thirty-one year old male resident of Minnesota.

19 16. On or about April 25, 2005 P.Z. was found in his home by his girlfriend and was  
20 unresponsive as a result of ingesting fifteen to twenty tablets of Soma along with Oxy-Contin.  
21 The Oxy-Contin was prescribed by another physician. P.Z. was admitted to the Madison  
22 Hospital in Madison, Minnesota, and later transferred to the Inpatient Psychiatric Unit at Rice  
23 Hospital in Willmar, Minnesota.

24 17. The standard of care requires that a physician establish a doctor-patient  
25 relationship prior to describing medications or rendering treatment to a patient. An important

1 component in establishing that relationship is that a physician must perform a physical  
2 examination of the patient unless there is an existing doctor-patient relationship. Respondent  
3 did not perform a physical examination of P.Z. Instead, Respondent relied on an online  
4 questionnaire completed by P.Z.

5 18. There is no credible evidence that Respondent established a doctor-patient  
6 relationship with P.Z. Therefore, Respondent deviated from the standard of care.

7 19. P.Z. was harmed as he overdosed on the medication prescribed by  
8 Respondent. Others who received prescriptions from Respondent were subject to the potential  
9 harm of receiving internet prescribed medications without the establishment of a  
10 physician/patient relationship.

11 **Case No. MD-05-1029A**

12 20. The Board initiated case number MD-05-1029A on October 6, 2005 after  
13 receiving a complaint alleging Respondent failed to establish a doctor-patient relationship before  
14 prescribing Viagra over the internet, including failing to conduct a physical examination and  
15 failing to maintain adequate records.

16 21. On November 7, 2005 Respondent filed a response with the Board as noted in  
17 Finding No. 10 above.

18 22. The complainant stated Respondent did not perform a physical examination  
19 and Respondent never contacted him to verify his medical information contained in the online  
20 medical questionnaire.

21 **Summary Suspension**

22 23. On January 30, 2006 the Board reviewed the two cases against Respondent.

23 24. The Board concluded that the "facts as presented demonstrate that the public  
24 health, safety and welfare imperatively requires emergency action" pursuant to A.R.S. § 32-  
25 1451(D).

25. The Board ordered that Respondent's license to practice allopathic medicine be summarily suspended, subject to a formal hearing before the Office of Administrative Hearings.

26. On January 30, 2006 the Board, through its Executive Director, issued Interim Findings of Fact, Conclusions of Law and Order for Summary Suspension of License in Case No. MD-05-1029A and MD-05-1077A.

**Docket No. 05A-24075-MDX**

27. The Board referred the matter to the Office of Administrative Hearings, an independent agency, for formal hearing.

28. Respondent did not establish a doctor-patient relationship with internet customers, in part, because he did not perform physical examinations prior to prescribing medications. By failing to do so, his conduct fell below the standard of care.

29. The Board had sufficient grounds for taking the emergency action of summarily suspending Respondent's allopathic license to protect the public health, safety and welfare.

## CONCLUSIONS OF LAW

1. The Board has jurisdiction over Respondent and the subject matter in this case.

2. The Board has the burden of proof in this matter. A.R.S. § 41-1092.07(G)(2).  
The standard of proof is a preponderance of the evidence. A.A.C. R2-19-119(A).

3. The conduct and circumstances described in the above Findings constitute unprofessional conduct by Respondent pursuant to A.R.S. § 32-1401(27)(q) ("Any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public").

5. The conduct and circumstances described in the above Findings constitute unprofessional conduct by Respondent pursuant to A.R.S. § 32-1401(27)(dd) ("Failing to furnish

1 information in a timely manner to the board or the board's investigators or representatives if  
2 legally requested by the board").

3 6. The conduct and circumstances described in the above Findings constitute  
4 unprofessional conduct by Respondent pursuant to A.R.S. § 32-1401(27)(jj) ("Knowingly making  
5 a false or misleading statement to the board or on a form required by the board or in a written  
6 correspondent, including attachments, with the board").

7 7. The conduct and circumstances described in the above Findings constitute  
8 unprofessional conduct by Respondent pursuant to A.R.S. § 32-1401(27)(ll) ("Conduct that the  
9 board determines is gross negligence, repeated negligence, or negligence resulting in harm to  
10 or the death of a patient").

11 8. The conduct and circumstances described in the above Findings constitute  
12 unprofessional conduct by Respondent pursuant to A.R.S. § 32-1401(27)(ss) ("Prescribing,  
13 dispensing or furnishing a prescription medication or a prescription-only device...to a person  
14 unless the licensee first conducts a physical examination of that person or has previously  
15 established a doctor-patient relationship . . . .").

#### 16 **ORDER**

17 Based upon the Findings of Fact and Conclusions of Law as adopted, the Board hereby  
18 enters the following Order:

19 Respondent's license No. 24075 to practice allopathic medicine in the State of Arizona  
20 is revoked on the effective date of this Order and Respondent shall return his wallet card and  
21 certificate of licensure to the Board.

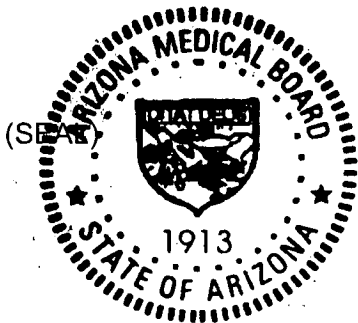
#### 22 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

23 Respondent is hereby notified that he has the right to petition for a rehearing or  
24 review by filing a petition with the Board's Executive Director within thirty (30) days after  
25 service of this Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient

1 reasons for granting a rehearing. A.C.C. R4-16-102. Service of this order is effective five  
2 (5) days after date of mailing. If a motion for rehearing is not filed, the Board's Order  
3 becomes effective thirty-five (35) days after it is mailed to Respondent.

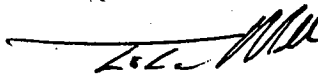
4 Respondent is further notified that the filing of a motion for rehearing is required  
5 to preserve any rights of appeal to the Superior Court.

6 Dated this 8 day of June, 2006.



ARIZONA MEDICAL BOARD

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By:   
Timothy C. Miller, J.D.  
Executive Director

Original of the foregoing filed this  
12<sup>th</sup> day of June, 2006, with:

Arizona Medical Board  
9545 East Doubletree Ranch Road  
Scottsdale, AZ 85258

Copy of the foregoing filed this  
12<sup>th</sup> day of June, 2006, with:


Cliff J. Vanell, Director  
Office of Administrative Hearings  
1400 W. Washington, Ste. 101  
Phoenix, AZ 85007

Executed copy of the foregoing mailed  
by Certified Mail this 12<sup>th</sup> day of June,  
2006, to:

Bruce Hunter, M.D.  
(Address of record)

Executed copy of the foregoing mailed  
this 12<sup>th</sup> day of June, 2006, to:

Dean Brekke  
Assistant Attorney General  
Office of the Attorney General  
CIV/LES  
1275 W. Washington  
Phoenix, Arizona 85007

A handwritten signature in cursive script, appearing to read "Arin G. Goggin", is written over a horizontal line.